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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/579,345	05/12/2006	Joachim Weber	2003DE135	2955
25255 7590 02/12/2009 CLARIANT CORPORATION INTELLECTUAL PROPERTY DEPARTMENT 4000 MONROE ROAD CHARLOTTE, NC 28205				
			EXAMINER GREEN, ANTHONY J	
			ART UNIT 1793	PAPER NUMBER
			MAIL DATE 02/12/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/579,345

**Applicant(s)**

WEBER ET AL.

**Examiner**

Anthony J. Green

**Art Unit**

1793

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☒ Claim(s) 9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/55/08)  
Paper No(s)/Mail Date 02/12/07.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

**DETAILED ACTION**

***Response to Preliminary Amendment***

1. The preliminary amendment has been entered. Claims 12-13 have been added and accordingly claims 1-13 are currently pending in the application.

***Claim Objections***

2. Claim 9 is objected to because of the following informalities: In claim 9, line 2, the term "pf" should be -- of --. Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over PCT International Application No. WO 03/006556 A1 in view of Jun et al (US Patent No. 6,504,045 B2).

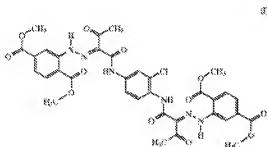
US Patent No. 7,135,067 B2 is utilized as the English language equivalent of the PCT application.

The PCT application teaches, in the abstract and the claims, aqueous pigment dispersions used for pigmenting paints, inks, seeds, mortar, plastics, etc. According to

the abstract the preferred pigments include mono and dis-azo, phthalocyanine etc.

According to the claims of US 7,135,067) mixtures of the pigments may be utilized.

Jun et al (US Patent No. 6,504,045 B2) is cited as showing that disazo pigments are known which have the following structural formula:



The instant claims are obvious over the reference. While the primary reference does not teach the use of a disazo pigment having the claimed structure it does teach that disazo pigments may be used in combination with phthalocyanine pigments. Accordingly it would have been obvious to utilize any disazo pigment such as that of the secondary pigment in the composition of the primary reference and thus arrive at the instant invention because the substitution of one known element for another would have yielded predictable results to one of ordinary skill in the art at the time of the invention. Further, the claim would have been obvious because "a person of ordinary skill has good reason to pursue the known options with his or her technical grasp. If this leads to the anticipated success, it is likely the product not of innovation but of ordinary skill and common sense." As for claims 2-6 and 12 it would have been obvious to utilize any type of phthalocyanine pigment for the phthalocyanine pigment of the reference because the substitution of one known element for another would have yielded predictable results to one of ordinary skill in the art at the time of the invention. Further,

the claim would have been obvious because "a person of ordinary skill has good reason to pursue the known options with his or her technical grasp. If this leads to the anticipated success, it is likely the product not of innovation but of ordinary skill and common sense." As for claim 7 it would have been obvious to a person having ordinary skill in the art at the time the invention was made to utilize any weight ratio of the pigments depending on the desired pigment color to be produced since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). As for claim 8 one would find it obvious to produce the pigment composition in any form that is needed or desired because "a person of ordinary skill has good reason to pursue the known options with his or her technical grasp. If this leads to the anticipated success, it is likely the product not of innovation but of ordinary skill and common sense." As for claim 9 this would be rendered obvious by the references disclosure of the use of one or more pigments. As for claims 10 and 13 the reference recites various materials that may be colored which include paints, inks, seeds, plastics etc. As for claim 11 it would have been obvious to utilize an amount that is necessary to produce the desired color.; Accordingly the instant claims are obvious over the reference.

***Information Disclosure Statement***

5. The remaining references have been reviewed by the examiner and are considered to be cumulative to or less material than the prior art references relied upon in the above rejections.

***References Cited By The Examiner***

6. The remaining references have been reviewed by the examiner and are considered to be cumulative to or less material than the prior art references relied upon in the above rejections.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony J. Green whose telephone number is 571-272-1367. The examiner can normally be reached on Monday-Thursday 6:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on 571-272-1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Anthony J. Green/

Primary Examiner  
Art Unit 1793

ajg  
February 9, 2009